

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

February 20, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF WAYNE ANDERSON
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY

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NICHOLAS T. COOPER, ESQ.

CASEY L. CHALBECK, ESQ.

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And

UNITED STATES DEPARTMENT OF JUSTICE

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For the Plaintiff

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BY: ROBERT CHARLES SINGER, ESQ.

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And

LAW OFFICES OF PARKER ROY MacKAY

BY: PARKER ROY MacKAY, ESQ.

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For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent

MARILYN K. HALLIDAY, HSI Special Agent

KAREN A. CHAMPOUX, USA Paralegal

1 **LAW CLERK:** **REBECCA FABIAN IZZO, ESQ.**

2 **COURT DEPUTY CLERK:** **COLLEEN M. DEMMA**

3 **COURT REPORTER:** **ANN MEISSNER SAWYER, FCRR, RPR, CRR**
4 Robert H. Jackson Federal Courthouse
5 2 Niagara Square
6 Buffalo, New York 14202
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9 * * * * * * *
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11 (Excerpt commenced at 4:04 p.m.)

12 (Jury is present.)

04:04PM 13 **W A Y N E A N D E R S O N**, having been duly called and
04:04PM 14 sworn, testified as follows:

04:04PM 15 **MR. TRIPI:** May I proceed, Your Honor?

04:04PM 16 **THE COURT:** You may.

04:04PM 17 **MR. TRIPI:** All right. Thank you.

04:04PM 18 **DIRECT EXAMINATION BY MR. TRIPI:**

04:04PM 19 Q. Again, just for the record, what's your name, sir?

04:04PM 20 A. Wayne Anderson.

04:04PM 21 Q. Okay. Good afternoon, Mr. Anderson. Mr. Anderson,
04:05PM 22 what's your address?

04:05PM 23 A. 17 Elmview place, Buffalo, 14207.

04:05PM 24 Q. How long have you lived there, sir?

04:05PM 25 A. About 24 years.

04:05PM Q. And is that a -- is that a double, upper and a lower?

04:05PM 1 A. Double, upper and lower.

04:05PM 2 Q. Do you live in the upper or the lower?

04:05PM 3 A. The upper.

04:05PM 4 Q. Is that a building that you own?

04:05PM 5 A. Yes.

04:05PM 6 Q. Do you rent out the lower?

04:05PM 7 A. Yes.

04:05PM 8 Q. I don't want to get too personal, but can you tell us

04:05PM 9 what your date of birth is, please.

04:05PM 10 A. 9/14/66.

04:05PM 11 Q. And just the last four of your social?

04:05PM 12 A. 4973.

04:05PM 13 Q. Mr. Anderson, where did you grow up, sir?

04:05PM 14 A. The West Side --

04:05PM 15 Q. Specifically where?

04:05PM 16 A. -- of Buffalo. West Side of Buffalo, Ferguson Street.

04:05PM 17 Q. How far have you gone in school?

04:05PM 18 A. A couple years of college.

04:05PM 19 Q. Where did you go to college?

04:05PM 20 A. Buffalo State.

04:05PM 21 Q. And did you go to high school in the local area?

04:05PM 22 A. Yes, Bennett. Bennett High School.

04:06PM 23 Q. And how far did you go? Did you graduate?

04:06PM 24 A. No, I took my GED and went to college.

04:06PM 25 Q. How far did you go in Bennett?

04:06PM 1 A. Sophomore year, probably.

04:06PM 2 Q. And that's located on Main Street in Buffalo?

04:06PM 3 A. Yes, sir.

04:06PM 4 Q. Sort of over near Hertel Avenue?

04:06PM 5 A. Yes.

04:06PM 6 Q. What part of town would that be considered?

04:06PM 7 A. North Buffalo.

04:06PM 8 Q. So you grew up on the West Side, but you went to high

04:06PM 9 school in North Buffalo?

04:06PM 10 A. Yes. I lived with my grandparents then, and they lived

04:06PM 11 in North Buffalo.

04:06PM 12 Q. Where did your grandparents live?

04:06PM 13 A. On Lisbon Avenue.

04:06PM 14 Q. Where is Lisbon near?

04:06PM 15 A. Right by Main. Off Main Street in between -- well, it

04:06PM 16 goes from Main all the way to, I think, Eggert Road.

04:06PM 17 Q. And do you know Joseph Bongiovanni?

04:06PM 18 A. Yes.

04:06PM 19 Q. Do you see him in court today?

04:06PM 20 A. Yes.

04:06PM 21 Q. Can you please point to him and describe something he's
04:06PM 22 wearing?

04:06PM 23 A. Yes. A burgundy tie.

04:07PM 24 **MR. TRIPI:** May the record reflect that the witness
04:07PM 25 pointed to and identified Mr. Bongiovanni, Your Honor?

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THE COURT: Yes, it does.

MR. TRIPI: Thank you.

BY MR. TRIPI:

Q. How long have you known Mr. Bongiovanni?

A. Probably 40 years.

Q. And how old are you?

A. I'm 57.

Q. So you met when you were about 17 years old?

A. 17, 18, right around there.

Q. Okay. How did you meet him?

A. Just out and about. Through some friends.

Q. Who did you meet him through?

A. Probably my friend Bart Mazzara, or Marty Mazzara.

Q. Okay. That was Bart and Marty Mazzara?

A. Yes.

Q. Are those two individuals related to Michael Masecchia?

A. Through marriage.

Q. And I should you ask, do you know Michael Masecchia?

A. Yes, I do.

Q. How long have you known Michael Masecchia?

A. Around the same amount of time.

Q. Roughly 40 years?

A. Yes, sir.

Q. Fair to say that as you got older, you got to know a lot of people who grew up in the North Buffalo area from going to

04:08PM 1 school at Bennett?

04:08PM 2 A. Yes.

04:08PM 3 Q. Did you spend time hanging out in the North Buffalo area?

04:08PM 4 A. Yes.

04:08PM 5 Q. Through the years, have you been friendly with the

04:08PM 6 defendant? Friends?

04:08PM 7 A. Yes, always.

04:08PM 8 Q. Do you know his current wife?

04:08PM 9 A. Not really, no.

04:08PM 10 Q. Do you know her name?

04:08PM 11 A. No, I don't.

04:08PM 12 Q. Okay. When you were growing up, how frequently were you

04:08PM 13 around the defendant?

04:09PM 14 A. Not that often.

04:09PM 15 Q. Okay. How frequently were you around Mr. Masecchia?

04:09PM 16 A. A lot. I hung around with him a lot.

04:09PM 17 Q. Fair to say that after you were subpoenaed to come

04:09PM 18 testify here, you indicated to the FBI, Agent -- Mr. Burns,

04:09PM 19 that you don't know how you could help the government in this

04:09PM 20 case?

04:09PM 21 A. Yes.

04:09PM 22 Q. And that Bongiovanni was a good guy, correct?

04:09PM 23 A. Correct.

04:09PM 24 Q. Okay. And you've known him a long time. Before he got

04:09PM 25 married, did you go to his stag party?

1 A. I believe so, yes.

2 Q. And where was that located?

3 A. Downtown, I can't remember the name of the bar. It was
4 in, like, the where the bricks -- the brick roads are in over
5 there, I can't remember the name of it.

6 Q. Do you think your grand jury testimony might refresh your
7 recollection on that?

8 A. Yes.

9 Q. Okay. I'm going to hand that up to you, it's Government
10 Exhibit 3513A. And I'm gonna direct you to page 7, but I
11 want to find you a line, okay?

12 A. Okay.

13 Q. I'm going to ask you to read on that page 7, lines 11
14 through 19, okay? I'm going to hand it up to you to read.

15 A. Okay.

16 **MR. TRIPI:** I've marked off those lines, Judge, so he
17 can find it easily.

18 **THE COURT:** That's fine.

19 **BY MR. TRIPI:**

20 Q. When you're done, don't read it out loud. When you're
21 done, just put it down and I'll take that back, okay?

22 A. Yes.

23 Q. Does that refresh your recollection as to where
24 Mr. Bongiovanni's stag party was that you attended?

25 A. Yes, sir.

04:11PM

1 Q. Where was that?

04:11PM

2 A. Iron Works.

04:11PM

3 Q. And where -- where's Iron Works located?

04:11PM

4 A. It's, like, past -- like, by the arena maybe.

04:11PM

5 Q. By the arena, are you referring to where the Buffalo

04:11PM

6 Sabres play?

04:11PM

7 A. Yes. Yes.

04:11PM

8 Q. Was that stag party before Mr. Bongiovanni got married?

04:12PM

9 A. Well, I assume. You have a stag before you get married.

04:12PM

10 Q. That would make sense, right?

04:12PM

11 A. Yes. Yes.

04:12PM

12 Q. Do you remember what year that was?

04:12PM

13 A. No. No, sir.

04:12PM

14 Q. Who else do you remember growing up with being at that

04:12PM

15 stag party?

04:12PM

16 A. It's been a long time. I imagine all of his closer

04:12PM

17 friends, than mine. Probably Louie Selva. Maybe Michael

04:12PM

18 Masecchia. Michael brother's Rano, maybe.

04:12PM

19 I'm just trying to think of North Buffalo guys.

04:12PM

20 Steve Brucato, maybe. Dominic Fragale. People like

04:12PM

21 that.

04:12PM

22 Q. Now you mentioned that name, Lou Selva. Is that someone

04:13PM

23 you've known for a while?

04:13PM

24 A. Yes. I've known Louie for a while, yes.

04:13PM

25 Q. How long have you known him?

04:13PM 1 A. Around the same as I've known Joe and Mike Masecchia,
04:13PM 2 about 40 years.

04:13PM 3 Q. Okay. So going back to your teenage years?

04:13PM 4 A. Yes, sir.

04:13PM 5 Q. As far as you understood it, what was Mr. Selva and the
04:13PM 6 defendant's relationship?

04:13PM 7 A. They were very, very good friends.

04:13PM 8 Q. And as far as you understood it, what was Mr. Masecchia
04:13PM 9 and the defendant's relationship?

04:13PM 10 A. I mean, they were friends, but I -- I didn't see, like,
04:13PM 11 it's not like they hung around, not like him and Louie did.
04:13PM 12 You know.

04:13PM 13 Q. Okay. And you indicated the name Bart Mazzara earlier.
04:13PM 14 Was that individual friendly with the defendant? I think
04:13PM 15 that's someone you said you met him through?

04:13PM 16 A. Bart, yes. Them guys were all guys that worked out in
04:13PM 17 the gym together and stuff. Bart is deceased now, Bart
04:14PM 18 passed away.

04:14PM 19 Q. What gym are you referring to?

04:14PM 20 A. They used to work out at, what's it called? The Fitness
04:14PM 21 Factory.

04:14PM 22 Q. Where is that located in?

04:14PM 23 A. That's on Kenmore on Delaware Avenue.

04:14PM 24 Q. Now, I'd like to direct your attention back in time to
04:14PM 25 November 25th, 2012. On that date, did the New York State

04:14PM 1 Police execute a search warrant at your residence at

04:14PM 2 17 Elmview Place, upper, Buffalo, New York?

04:14PM 3 A. Yes, sir.

04:14PM 4 Q. Okay. Now, using that as sort of a marker, do you think

04:14PM 5 that stag party was before or after that date?

04:14PM 6 A. I couldn't -- I have no idea, honestly.

04:14PM 7 Q. Okay. In any event, on that date, November 25th, 2012,

04:14PM 8 you and a guy named Damien Abbate got arrested and a bunch of

04:14PM 9 marijuana was seized; is that a fair summary?

04:15PM 10 A. Yes, sir.

04:15PM 11 Q. Ultimately, is it your understanding that Mr. Abbate

04:15PM 12 pleaded guilty in Erie County?

04:15PM 13 A. Yes.

04:15PM 14 Q. You were not -- you were not charged, were you?

04:15PM 15 A. No.

04:15PM 16 Q. Were you ever sentenced as a result of that arrest to

04:15PM 17 jail or probation?

04:15PM 18 A. No, sir.

04:15PM 19 Q. Okay. Even though you were arrested that day, your case

04:15PM 20 went away?

04:15PM 21 A. It was dismissed.

04:15PM 22 **MR. MacKAY:** I'm going to object to the leading.

04:15PM 23 **THE COURT:** I'm sorry?

04:15PM 24 **MR. MacKAY:** Judge, I'm going object to the leading.

04:15PM 25 **THE COURT:** Yes, sustained. Ask another question.

04:15PM 1 And the jury will strike that answer.

04:15PM 2 **BY MR. TRIPI:**

04:15PM 3 Q. What's your understanding of what happened to your case?

04:15PM 4 A. My case was dismissed.

04:15PM 5 Q. Okay. Is that what you understood me to mean when I said
04:15PM 6 a moment ago, went away? I used a poor sentence, that's all.

04:15PM 7 A. Yes, sir.

04:15PM 8 Q. Okay. So now this might seem redundant, but I'm going to
04:15PM 9 just specifically ask you on January 6th, 2015, resulting
04:16PM 10 from that arrest, were you sentenced to 36 months probation
04:16PM 11 in New York State court; yes or no?

04:16PM 12 A. No.

04:16PM 13 Q. Okay. Stemming from that arrest, did you become an
04:16PM 14 informant for anyone?

04:16PM 15 A. No.

04:16PM 16 Q. Did you ever talk to the defendant and cooperate with the
04:16PM 17 DEA after that arrest by the New York State Police?

04:16PM 18 A. No, sir.

04:16PM 19 Q. Were you ever asked by the defendant to cooperate and
04:16PM 20 become a DEA informant after that arrest?

04:16PM 21 A. No, sir.

04:16PM 22 Q. Did a DEA task force officer named Joe Palmieri ever
04:16PM 23 approach you and ask you to cooperate after that arrest at
04:16PM 24 your house?

04:16PM 25 A. No, sir.

04:16PM 1 Q. Were you ever planning, after that arrest at your house,
04:16PM 2 were you ever planning with your lawyer to come in and
04:16PM 3 proffer at the U.S. Attorney's Office?

04:16PM 4 A. No, sir.

04:16PM 5 Q. Do you even know what that term "proffer" means?

04:16PM 6 A. No, sir.

04:16PM 7 Q. Do you know a Frank Burkhardt?

04:17PM 8 A. Yes, sir.

04:17PM 9 Q. Who is that?

04:17PM 10 A. A friend from the West Side.

04:17PM 11 Q. Does he own a tattoo parlor?

04:17PM 12 A. Yes, sir.

04:17PM 13 Q. What's the name of that tattoo parlor?

04:17PM 14 A. I can't remember offhand. It's on Elmwood Avenue, I know
04:17PM 15 that.

04:17PM 16 Q. Does Hardcore Tattoo ring a bell?

04:17PM 17 A. That's it. Yes, sir.

04:17PM 18 Q. That's on Elmwood near where?

04:17PM 19 A. Elmwood and West Delavan.

04:17PM 20 Q. Does Frank Burkhardt know Mike Masecchia?

04:17PM 21 A. Yes, but not well. Knows of him, probably.

04:17PM 22 Q. But you know both of them?

04:17PM 23 A. Yes, sir.

04:17PM 24 **MR. TRIPI:** Just one moment, please, Your Honor.

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BY MR. TRIPI:

Q. Earlier, I might have misunderstood the name. You mentioned an individual, and if I get the name wrong it's just me making a mistake. Okay?

A. Okay.

Q. So, but did you mention earlier among the people that you thought were at Bongiovanni's stag, was there a Brucato? Is that the name you said?

A. I said Steve Brucata.

Q. Brucata?

A. Yeah. I think that's how you say his name.

Q. Where did he work?

A. Steve? God, he bartended everywhere. The Pier, Gabels, other -- I imagine other places, too.

MR. TRIPI: Okay. All right. No further questions, Your Honor. Thank you.

THE COURT: Cross?

MR. MacKAY: Thank you, Your Honor.

CROSS-EXAMINATION BY MR. MACKAY:

Q. Good afternoon, Mr. Anderson.

A. Good afternoon.

Q. So I want to talk to this -- talk to you about this event that occurred in November of 2012.

You and Damian Abbate are arrested at your 17 Elmview

04:19PM 1 Place residence, correct?

04:19PM 2 A. Yes, sir.

04:19PM 3 Q. I just want to set the scene. Elmview Place, that's

04:19PM 4 right over off of Elmwood Avenue by McKinley High School,

04:19PM 5 correct?

04:19PM 6 A. Yes, sir.

04:19PM 7 Q. In sum and substance, there's some drugs that were

04:19PM 8 supposed to arrive, and the state police arrested you during

04:19PM 9 the receipt of those drugs; is that a fair summary of what

04:19PM 10 happened?

04:19PM 11 A. Yes.

04:19PM 12 Q. Okay. You're placed in handcuffs, correct?

04:19PM 13 A. Yes, sir.

04:19PM 14 Q. Mr. Abbate is placed in handcuffs, correct?

04:19PM 15 A. Yes, sir.

04:19PM 16 Q. Okay. And you are taken downtown to central booking,

04:20PM 17 correct?

04:20PM 18 A. Yes, sir.

04:20PM 19 Q. Central booking, just so the jury understands, that's the

04:20PM 20 facility next to city court, correct?

04:20PM 21 A. Yes. Actually, I was taken under city court in a holding
04:20PM 22 cell.

04:20PM 23 Q. Correct. You've got to go down the ramp, correct?

04:20PM 24 A. Yes, sir.

04:20PM 25 Q. Go into the garage, correct?

04:20PM

1 A. Yes, sir.

04:20PM

2 Q. You go through the processing, correct?

04:20PM

3 A. Yes, sir.

04:20PM

4 Q. And then you sit, usually overnight, correct?

04:20PM

5 A. Yes, sir.

04:20PM

6 Q. And then you're brought up the elevator the next day to

04:20PM

7 see a city court judge, correct?

04:20PM

8 A. Yes, sir.

04:20PM

9 Q. And that's what happened to you, correct?

04:20PM

10 A. Yes, sir.

04:20PM

11 Q. So you pleaded not guilty in front of a judge, correct?

04:20PM

12 A. Yes, sir.

04:20PM

13 Q. But at some point in time down the line, your case is

04:20PM

14 dismissed, correct?

04:20PM

15 A. Yes, sir.

04:20PM

16 Q. And it's your understanding that Damien Abbate pleaded

04:20PM

17 guilty to some charge related to that incident, correct?

04:20PM

18 A. Yes, sir.

04:20PM

19 Q. Do you know if he pleaded guilty to the full charge for

04:20PM

20 which he was charged?

04:20PM

21 **MR. TRIPI:** Objection as to form.

04:20PM

22 **THE COURT:** Say it again?

04:20PM

23 **MR. TRIPI:** Form objection.

04:20PM

24 **THE COURT:** Form? Yeah. Sustained. You can ask the

04:21PM

25 question, just word it differently.

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MR. MacKAY: Sure.

BY MR. MacKAY:

Q. Do you know what Mr. Abbate pleaded guilty to?

A. Not offhand, I mean, whatever the charge was.

Q. Okay. If he was charged with a drug charge, you're telling us your understanding was he pleaded guilty to a drug charge?

A. Yes, sir.

Q. And is it your understanding -- well, what sentence do you understand that Mr. Abbate got?

A. Mr. Abbate got probation.

Q. Okay. Now, back up. You said you had entered a not-guilty plea in court, correct?

A. I did, yes.

Q. You had to go out and get a lawyer, correct?

A. Yes, sir.

Q. And after that point in time, is it fair to say that any conversations with a prosecutor were handled by your lawyer, correct?

A. Yes, sir.

Q. You didn't go in and speak to a prosecutor and negotiate your case, correct?

A. Yes, sir, no, I didn't.

Q. You paid a lawyer to do that, correct?

A. Yes, sir.

04:21PM 1 Q. And at some point in time, you learned that the case is
04:21PM 2 dismissed, correct?

04:21PM 3 A. Yes.

04:21PM 4 Q. But you don't necessarily have to go to court for the
04:22PM 5 case to actually be dismissed, correct?

04:22PM 6 A. Correct.

04:22PM 7 Q. You, I assume, received some sort of proof satisfying you
04:22PM 8 that this case was dismissed, correct?

04:22PM 9 A. Yes, sir.

04:22PM 10 Q. Okay. Now, you did not have to go in and do any
04:22PM 11 cooperation against Mr. Abbate, correct?

04:22PM 12 A. No, sir.

04:22PM 13 Q. Mr. Bongiovanni didn't approach you and ask to do any
04:22PM 14 cooperation, correct?

04:22PM 15 A. No, sir.

04:22PM 16 Q. There just came a point in time where the charges were no
04:22PM 17 longer over your head, correct?

04:22PM 18 A. Yes, sir.

04:22PM 19 Q. And that means you're no longer facing a drug charge from
04:22PM 20 that incident, correct?

04:22PM 21 A. Correct.

04:22PM 22 Q. In sum and substance, you understood Mr. Abbate took the
04:22PM 23 charge, correct?

04:22PM 24 A. Yes, sir.

04:22PM 25 Q. Okay. Now, Mr. Tripi asked you a little bit about this

04:22PM 1 stag party, correct, you remember that?

04:22PM 2 A. Yes.

04:22PM 3 Q. You gave us a list of names. Do you remember giving us
04:22PM 4 those names?

04:22PM 5 A. Yes, sir.

04:22PM 6 Q. Okay. Now, I guess what I want to clarify is at least it
04:23PM 7 sounded like you were trying to -- strike that.

04:23PM 8 Do you actually remember all those people being there?

04:23PM 9 Or those are just people you remember Mr. Bongiovanni
04:23PM 10 generally knew growing up?

04:23PM 11 A. I remember people, I would assume that were there. I
04:23PM 12 can't remember -- I can't recall everyone that was at that
04:23PM 13 stag.

04:23PM 14 Q. That's what I'm asking.

04:23PM 15 A. Yes.

04:23PM 16 Q. You don't remember specifically whether the names you
04:23PM 17 gave us were there --

04:23PM 18 A. No.

04:23PM 19 Q. -- you're basing it on assumption?

04:23PM 20 A. No, I just assume that they were there because there are
04:23PM 21 some of his friends and people me and him know well. And
04:23PM 22 Italian stags, a lot of people come to. You know? It's
04:23PM 23 usually all of our friends.

04:23PM 24 Q. Sure. And when you say a lot of people, can you estimate
04:23PM 25 for the jury how many people you think were there that the

04:23PM 1 stag?

04:23PM 2 A. When I was at his stag, I don't know how long I stayed,
04:23PM 3 but there was at least I'd say 40 to 50 people maybe tops.

04:23PM 4 Q. And if you're told it was at this bar, Iron Works, do you
04:23PM 5 recall if this was a private event, or if this was in
04:23PM 6 conjunction with other people being allowed to use the bar?

04:24PM 7 A. Usually when you have a stag, it's closed off for the
04:24PM 8 stag. So --

04:24PM 9 Q. Do you -- do you specifically remember it being closed
04:24PM 10 out for a private party?

04:24PM 11 A. I don't, no.

04:24PM 12 Q. But you recall at least 40 or 50 or more people being
04:24PM 13 there?

04:24PM 14 A. Yes. I'd say it was probably 40, 50 people there, I
04:24PM 15 guess.

04:24PM 16 Q. Okay. Now, by that point in time, you're quite removed
04:24PM 17 from when you knew Mr. Bongiovanni back in high school,
04:24PM 18 correct?

04:24PM 19 A. I'm sorry, repeat that?

04:24PM 20 Q. Bad question.

04:24PM 21 You knew Mr. Bongiovanni back in high school, correct?

04:24PM 22 A. More or less college, you know. Like, my college days.
04:24PM 23 I met Joe with friends over the years, yes.

04:24PM 24 Q. Okay. Yeah. I guess I'm just trying to trace that. I
04:24PM 25 think you narrowed it down to you were about 17?

04:24PM 1 A. 17, 18, yes.

04:24PM 2 Q. I guess that's right on the cusp of high school/college.

04:24PM 3 A. Right.

04:24PM 4 Q. I guess I'm trying to trace down when did you first meet

04:25PM 5 Mr. Bongiovanni?

04:25PM 6 A. Yes. I'd say right around '84, '85, '86, like right in

04:25PM 7 them years, you know.

04:25PM 8 Q. And you met him basically through your connections to

04:25PM 9 North Buffalo, right?

04:25PM 10 A. All my friends in North Buffalo, yes. Guys I went

04:25PM 11 through high school. Later on, I met their friends, and Joe

04:25PM 12 happened to be one of them. Yes.

04:25PM 13 Q. Okay. And at that point in time, one of the people that

04:25PM 14 formed some sort of connection is Michael Masecchia?

04:25PM 15 A. Yes. Yes.

04:25PM 16 Q. Okay. You knew him first? Or Mr. Bongiovanni knew him

04:25PM 17 first?

04:25PM 18 A. I knew Mike -- I knew Mike before I knew Joe. Joe knew

04:25PM 19 Mike before he knew me.

04:25PM 20 Q. Okay. So you're telling us that you separately knew

04:25PM 21 Mike, and then met you?

04:25PM 22 A. Yes.

04:25PM 23 Q. Okay. Now, Michael Masecchia, he's a big guy, correct?

04:25PM 24 A. Oh, yeah. Mike's a nice-sized guy, yeah.

04:25PM 25 Q. Yeah. I mean, can you clarify that for the jury? Is he

04:25PM 1 a physically intimidating guy?

04:25PM 2 A. He's a stocky guy.

04:25PM 3 Q. Okay. Height, weight if you can?

04:26PM 4 A. He's probably 5'10", 215 maybe.

04:26PM 5 Q. Okay. Works out a lot?

04:26PM 6 A. Yes.

04:26PM 7 Q. Now I think you then said on direct that some of these

04:26PM 8 folks all worked out together?

04:26PM 9 A. Yes, sir.

04:26PM 10 Q. How far now in the future from this 17, 18 years of age

04:26PM 11 are you talking that these guys worked out together?

04:26PM 12 A. I didn't follow how -- I know they all worked out because

04:26PM 13 we used to go to the beach, and they were all buffed up, and

04:26PM 14 me and a few of my friends weren't. You know, but we still

04:26PM 15 looked good, you know.

04:26PM 16 Q. How old are we talking when that happens?

04:26PM 17 A. Like I said, 17, 18, 19, 20, 21. We all went out to the

04:26PM 18 same places, you know, so we seen each other.

04:26PM 19 Q. Around there age?

04:26PM 20 A. Yes. Around that age.

04:26PM 21 Q. Now, fair to say that the connections grow more and more

04:26PM 22 distant over the years --

04:26PM 23 A. Yes.

04:26PM 24 Q. -- that you were with the same people?

04:26PM 25 A. Yes, we all grew up and went our ways, yes.

04:26PM 1 Q. Okay. And I think you told us that Mr. Bongiovanni, you
04:26PM 2 knew to be good friends with Mr. Selva, correct?

04:27PM 3 A. Joe was always a great guy, yes. He was very good,
04:27PM 4 polite person, good person.

04:27PM 5 Q. But specifically, you knew him to be at least good
04:27PM 6 friends with Lou Selva, right?

04:27PM 7 A. Louie and him were very tight, yes, they were good
04:27PM 8 friends.

04:27PM 9 Q. So that was a connection you knew to kind of carry
04:27PM 10 forward from that 17, 18-year-old age, right?

04:27PM 11 A. Yeah. They -- yes. They were -- they were always close.

04:27PM 12 Q. But if I think I understood you right, sounds like the
04:27PM 13 Michael Masecchia -- Mike Masecchia didn't stay as in close
04:27PM 14 contact with Joe Bongiovanni to what you saw going forward?

04:27PM 15 A. Mike? Mike moved around a lot. Mike was, like, friends
04:27PM 16 with a lot -- like, Joe and Louie were more secluded. They
04:27PM 17 were -- they did their jobs.

04:27PM 18 Mike was around all of us. Mike was always around. You
04:27PM 19 know, he's one of my friends. I traveled with, I did things
04:27PM 20 with. You know.

04:27PM 21 Q. So you stayed in contact with Michael Masecchia quite a
04:27PM 22 lot --

04:27PM 23 A. Yes.

04:27PM 24 Q. -- after those 17, 18-year-old ages?

04:27PM 25 A. Oh, yes. Me and Mike, we're close forever, yes.

04:27PM 1 Q. So even up until rather recently?

04:28PM 2 A. No, no. Over the past probably 10, 15 years, we drifted
04:28PM 3 off, but we still, you know, he's still one of my very good
04:28PM 4 friends. I care for him.

04:28PM 5 Q. Okay. And, you know, as we're getting closer and closer
04:28PM 6 to today, it's your testimony though that you didn't
04:28PM 7 generally see Mr. Bongiovanni and Mr. Masecchia together a
04:28PM 8 lot though; is that fair to say?

04:28PM 9 A. No, no. Like I say, back in the day, you'd see them,
04:28PM 10 they were all a group of guys from North Buffalo, big guys.
04:28PM 11 And it's not like they hung around, I never seen them, like,
04:28PM 12 all together or nothing, no.

04:28PM 13 Q. But when you say back in the day, again, you're referring
04:28PM 14 to, like 17 to, like, 21 years old?

04:28PM 15 A. Yes.

04:28PM 16 Q. Okay. We're not talking, like, in their 40s you're
04:28PM 17 seeing them out together?

04:28PM 18 A. No. No. No.

04:28PM 19 Q. You're not talking in their 50s you're seeing them out
04:28PM 20 together?

04:28PM 21 A. No, sir.

04:28PM 22 Q. Okay.

04:28PM 23 **MR. MacKAY:** One moment, Your Honor.

04:29PM 24 No further questions, Your Honor.

04:29PM 25 **THE COURT:** Any redirect?

04:29PM

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MR. TRIPI: No, Your Honor.

04:29PM

2

THE COURT: You can step down, sir. Thank you.

04:29PM

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THE WITNESS: Thank you.

04:29PM

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(Witness excused at 4:29 p.m.)

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(Excerpt concluded at 4:29 p.m.)

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CERTIFICATE OF REPORTER

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In accordance with 28, U.S.C., 753(b), I

14

certify that these original notes are a true and correct

15

record of proceedings in the United States District Court for

16

the Western District of New York on February 20, 2024.

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s/ Ann M. Sawyer

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Ann M. Sawyer, FCRR, RPR, CRR

21

Official Court Reporter

22

U.S.D.C., W.D.N.Y.

23

24

25

TRANSCRIPT INDEX

EXCERPT - EXAMINATION OF WAYNE ANDERSON

FEBRUARY 20, 2024

W I T N E S S

P A G E

W A Y N E A N D E R S O N

2

DIRECT EXAMINATION BY MR. TRIPI:

2

CROSS-EXAMINATION BY MR. MACKAY:

13